



## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

MEMORANDUM

EPA Region 5 Records Ctr.



298163

DATE: March 2, 1984

TO: Phil Van Ness

FROM: *Qm* Perry Mann and Tom Powell

SUBJECT: LPC 11980103 - Madison County - Hartford/Chemetco  
Addendum to enforcement brochure request dated 8-18-83

*Madison County*  
*Chemetco*  
*119801003*

## Location:

The main plant facility, as well as surrounding properties to the south and east, accounts for 125.16 acres in the SW $\frac{1}{4}$  of Section 16, T.4N, R.9W, Madison County, Illinois.

As recent as December 8, 1982, Chemetco purchased, from the George Huebner estate, a parcel consisting of 11.87 acres just east of the facility, but still within Section 16. It is not known if Chemetco purchased any additional ground of the Huebner estate, which is located farther east in Section 15.

## Ownership:

Madison County tax records indicate that billing, for the aforementioned properties, are sent to Chemetco Metals Corp. P. O. Box 187, Alton, Illinois 62002.

## Operator:

As per the facility's Part A notification, John Suarez, Vice President and General Manager of Chemetco Metals Corp. is the operator.

## Apparent Violations:

Within the following is the information concerning violations and the dates "observed" as you requested. If you would, please take notice that Chemetco has held the opinion that they do not manage any wastes, including hazardous wastes, nor have they ever done so, since at least the March 30, 1982 interim status inspection. This denial by Chemetco could not be questioned until the Agency acquired sufficient information to dispute their claim. This information was obtained by the Southern Regional office in an almost evolutionary process over the course of nearly three years of investigating and sample collecting, which brought to attention the apparent complexities of the problems at the site.

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STATE OF ILLINOIS

Hartford/Chemetco

-3-

March 2, 1984

October 21, 1983  
T. Powell  
P. Mann

Same as listed on September 7, 1983  
with the following additions: 725.441-.447,  
725.473-.477, 725.292-.294, 725.501-.503

TEP:PCM:jlr

cc: Southern Region  
Tom Cavanagh ✓

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STATE OF ILLINOIS

March 2, 1984

Your request to list violations as per the date "observed" is very difficult to comply with because the evolution of data through investigations and sample analyses, subsequent reviews and correlation, caused ultimate determinations of apparent violations to be recognized much later after the investigation date. For example, the lag period between the time a sample was collected to determine if a material was hazardous and the time the analytic results were available was usually several months. If the wastes were determined to be hazardous, then by your request the date the sample was collected would be charged; however, because of the material being recognized as hazardous, certain management and Administrative activities would have been required since November 19, 1980, thereby retroactivating violations with respect to any activities to the contrary back to the effective date of the regulations.

The following apparent violations listed with the dates on which inspections on the site occurred take in account the aforementioned retroactivity. The violations were assigned to a particular date after conducting a review of the file data, subsequently determining when violations were observed initially and then retroactivating those violations to prior inspection dates, as determined appropriate.

January 9, 1981 Tom Powell P. M. McCarthy	265.13, 265.15
March 30, 1982 D. Spencer	265.13, 265.15, 265.16, 265.31, 265.32, 265.33, 265.34, 265.37, 265.51-.56, 265.90-.94, 265.111, 265.112, 265.113, 265.118
August 27, 1982 D. Spencer T. Powell	725.113, 725.115, 725.116, 725.131, 725.132, 725.133, 725.134, 725.137, 725.151-.156, 725.190-.194, 725.211, 725.212, 725.213, 725.215, 725.117-.220, 725.242-.245
September 8, 1982 T. Powell J. Evans	Same as listed on August 27, 1982
May 11, 1983 T. Powell P. Mann	Same as listed on September 8, 1982 with the following additions: 725.322, 725.323, 725.325, 725.326, 725.328, 725.351-.353
September 7, 1983 T. Powell P. Mann	Same as listed on May 11, 1983 with the following additions: 725.171-.175

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STATE OF ILLINOIS

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

DATE: February 3, 1984

TO: Perry Mann and Tom Powell, Collinsville FOS

FROM: Phil Van Ness *PV*

SUBJECT: Chemetco Enforcement

I would appreciate it if all future referrals to me for EDG include the following data:

- Legal Description of Site ("Location");
- Name and Title of Chief Operating Officer;
- Name of Owner of Property involved, and address;
- Existing OP and DE permits, if applicable, and the date of issuance, if known;
- Enforcement history in narrative form, including negotiations, inspections, prior enforcement actions, etc.;
- Violations: I prefer a listing of violations as observed by date of observation; this can be done in two ways - I don't care which.

The reason for this memo is that your EDG referral for Chemetco is O.K. as far as it goes, but doesn't give me all the information I need for EDG, or give it to me in an easy-to-use format. Thus, I need you to provide me the site's legal description, the name and address of the property owner and (pretty please?) a listing of the date(s) on which each of the Part 725 violations was observed and recorded.

Diane sent me a really good referral last September in the Wastex case - it could be useful in "designing" future EDG referrals.

Thanks.

PVN:bkm

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STATE OF ILLINOIS

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ILL. E.P.A. - D.L.P.C.  
STATE OF ILLINOIS



217/782-5544

June 21, 1984

*Madison Co.  
Chemetco  
11980/0003*

Mr. Lee Hettinger, Chief  
Environmental Control Division  
Office of the Attorney General  
160 North LaSalle Street, 9th Floor  
Chicago, Illinois 60601

RE: EPA v. Chemetco Metals Corporation

EPA File No. 6862-HAZ

Dear Mr. Hettinger:

Enclosed are materials assembled by the Environmental Protection Agency supporting the filing of an enforcement action against Chemetco Metals Corporation.

The Agency requests you to represent it.

If, after you have reviewed these materials, you agree to do so, please advise me in writing. After we have agreed on the draft complaint, I will send you a letter asking you to file the complaint.

If you decide that you cannot represent the Agency in this case, please return the materials to me with a statement of your reasons.

Very truly yours,

*Phillip R. Van Ness*

Phillip R. Van Ness  
Technical Advisor  
Enforcement Programs

Enclosure

cc: Public Affairs (w/enclosure)  
Docket Control

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JUN 21 1984

E.P.A. — D.L.P.C.  
STATE OF ILLINOIS

IN THE MATTER OF: )

CHEMETCO METALS CORP. )

A Delaware Corporation )

RESPONDENT )

Doing Business at State Route 3 )

Hartford, Illinois )

EPA File No. 6862 Haz

EPA I.D. Number: LPC #11980103

ENFORCEMENT BROCHURE

By: Phil Van Ness and Bill Hutton, Enforcement Programs Division

I. Location of Respondent's Facility (Legal Description)

The main plant facility, as well as surrounding properties to the south and east, accounts for 125.16 acres in the SW 1/4 of Section 16, T.4N, R.9W, Madison County, Illinois.

As recently as December 8, 1982, Chemetco purchased, from the George Huebner estate, a parcel consisting of 11.87 acres just east of the facility, but still within Section 16. It is not known if Chemetco purchased any additional ground of the Huebner estate, which is located farther east in Section 15.

II. Ownership

Madison County tax records indicate that billings for the aforementioned properties are sent to Chemetco Metals Corp., P.O. Box 187, Alton, Illinois 62002.

III. Operator

As per the facility's Part A notification, John Suarez, Vice President and General Manager of Chemetco Metals Corp. is the operator.

IV. Registered Agent/Corporate Status

According to the Illinois Secretary of State's Office, Chemetco is a duly qualified Delaware Corporation in good standing. Their records indicate the corporation's Registered Agent for service in Illinois is

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STATE OF ILLINOIS

ENFORCEMENT BROCHURE

Chemetco Metals Corp., EPA File No. 6862-Haz

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Mr. Thomas McRaven, Illinois State Route 3, Hartford, Illinois. Hartford addressees use the Alton post office, apparently: Agency notices have been successfully mailed to the address indicated in II above.

V. Statutes and Regulations Violated; Possible Defense to RCRA Counts

1. Illinois Environmental Protection Act, Sections 12(a), 12(d), 12(f), 21(a), 21(e), 21(f), 21(g) and 21(h) (Ill. Rev. Stat. 1983, ch. 111 1/2, pars. 1012(a), 1012(d), 1012(f), 1021(a), 1021(e), 1021(f), 1021(g) and 1021(h)).

2. 35 Ill. Adm. Code 302.204, 302.208, 304.124, 304.126(a), 304.141(a), 309.102, 703.154, 725.113, 725.115, 725.137, 725.151, 725.173, 725.174, 725.175, 725.177, 725.190, 725.193, 725.194, 725.211, 725.212, 725.218, 725.242, 725.243, 725.244, 725.245, 725.322, 725.323, 725.326, 725.328, 725.351 and 725.353.

3. In the course of 31(d) negotiations, Chemetco representatives have continuously argued that, since some slag is re-charged to their smelting furnaces, their enormous accumulation of slag must be considered as part of a vast recycling effort, exempting Chemetco from most RCRA requirements pursuant to 35 Ill. Adm. Code 721.106. The Agency disagrees strongly with this view, noting that the waste slag accumulation is growing at a steady rate because -- as Chemetco officials have acknowledged in other contexts -- the percentage by volume of recoverable metal in Chemetco's waste slag is quite small and unlikely to be reduced substantially further in view of the limitations and complications of the smelting and reduction processes used by Chemetco.

VI. Statement of Violations

1. NPDES permit effluent violations; possible question of permit status.



NPDES Permit No. IL0025747 was issued to Chemetco on February 25, 1977, with an expiration date of January 21, 1982. A renewal application was filed on January 20, 1982, considerably less than 180 days prior to the expiration date. The Agency has deemed this to be a timely renewal application, and the old permit remains in effect until a renewal permit is issued. There may be some question as to the continued effect of the old permit because of the lateness of the renewal application. However, should Chemetco contest this point, our response would be to amend the complaint and allege discharging of contaminants without an NPDES Permit since January 22, 1982.

The NPDES permit provides the following discharge limits for outfall 001, which discharges to the Cahokia Diversion Drainage Canal:

<u>Parameter</u>	<u>Quantity (Daily Max)(kg/day)</u>	<u>Concentration (Daily Max)(mg/l)</u>
pH	--	6-9
Mercury	0.0002	0.0005
Lead	0.05	0.1
Zinc	0.49	1.0
Copper	0.49	1.0
Total Suspended Solids (TSS)	7.39	15
Dissolved Iron	0.24	0.5

Permit limitations were exceeded as follows:

<u>Month-Year</u>	<u>Parameter</u>	<u>Quantity</u>	<u>Concentration</u>
10/82	pH	--	9.4
11/82	pH	--	9.3
10/83	Mercury	0.0004	--
11/83	Mercury	0.0009	0.0008
	Lead	0.099	--
	Zinc	1.40	1.24
	Dissolved Iron	0.46	--
	TSS	11.25	--
12/83	Lead	0.2	0.19
	Zinc	8.53	8.0
	Copper	0.78	--

The levels are in violation of Chemetco's NPDES Permit, 35 Ill. Adm. Code 304.141(a) and 309.102, and Section 12(f) of the Act.

2. IPCB standards effluent violations

Agency sampling has revealed that the effluent results reported by Chemetco may substantially understate actual discharge levels. Agency sampling results which indicate violations of less stringent IPCB standards are as follows:

<u>Date</u>	<u>Parameter</u>	<u>Effluent Standard (mg/l)</u>	<u>Concentration (mg/l)</u>
2/13/82	Cadmium	0.15	4.8
	Mercury	0.0005	0.71
	Zinc	1.0	10
4/21/82	Cadmium	0.15	2.7
	Mercury	0.0005	1.8
	Nickel	1.0	29
	Zinc	1.0	13
6/23/82	Mercury	0.0005	0.25
8/25/82	Mercury	0.0005	0.15
10/27/82	Mercury	0.0005	1.2
1/2/83	Mercury	0.0005	0.3
3/16/83	Mercury	0.0005	0.4
5/11/83	Mercury	0.0005	0.5
	Zinc	1.0	10.2
8/24/83	Mercury	0.0005	0.33
	Zinc	1.0	14
9/7/83	Cadmium	0.15	6.5
	Lead	0.2	2.11
	Zinc	1.0	180
9/8/83*	Cadmium	0.15	6.0
	Lead	0.2	1.29
	Mercury	0.0005	1.5
	Zinc	1.0	120

\*Composite sample

The above listing includes only those results which were greater than five times the effluent standard, except that results for 9/8/83 are listed if greater than two times the effluent standard. See 35 Ill. Adm. Code 304.104. The above discharge levels constituted a violation of 35 Ill. Adm. Code 304.124 and 304.126(a), and Section 12(a) of the Act.

### 3. Groundwater Contamination

Sampling performed by the Agency and Chemetco reveal the following violations of water quality standards at groundwater monitoring wells located on or near the facility. Please refer to the map at Exhibit 130 for the location of these monitoring points.

#### Monitoring Well (MW)-2A (shallow)

<u>Date</u>	<u>Parameter</u>	<u>Water Quality Standard (mg/l)</u>	<u>Concentration (mg/l)</u>
9/8/82	Arsenic	1.0	40
	Copper	0.02	810
	Iron	1.0	130
	Nickel	1.0	630
	Sulfate	500	10,280
	Zinc	1.0	30

#### MW-2B (deep)

1/20/83	Copper	0.02	0.223
	Chloride	500	3600

#### MW-4 (deep)

1/20/83	Copper	0.02	1.30
	Zinc	1.0	15.1

#### MW-4A (shallow)

9/8/82	Arsenic	1.0	37
	Copper	0.02	3.1
	Nickel	1.0	21
	pH	6.5-9	10.1
	Sulfate	500	3848

#### MW-5 (deep)

1/20/83	Copper	0.02	0.526
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#### MW-5A (shallow)

9/8/82	Arsenic	1.0	7.2
	Cadmium	0.05	6.2
	Copper	0.02	3700
	Iron	1.0	1600
	Manganese	1.0	72

	Nickel	1.0	2400
	pH	6.5-9	1.8
	Sulfate	500	31,855
	Zinc	1.0	320
	MW-7 (deep)		
1/20/83	Copper	0.02	0.17
	MW-7A (shallow)		
9/8/82	Copper	0.02	7900
	Iron	1.0	6300
	Manganese	1.0	80
	Nickel	1.0	5400
	pH	6.5-9	2.7
	Sulfate	500	44,100
	Zinc	1.0	440
	MW-8 (deep)		
10/29/82	Chloride	500	3000
1/20/83	Copper	0.02	0.257
	Total Dissolved Solids (TDS)	1000	6300
	MW-8A (shallow)		
10/29/82	Copper	0.02	4.30
	Zinc	1.0	7.34
	Chloride	500	4400
	TDS	1000	6603
	MW-10		
1/20/82	Copper	0.02	0.107
	MW-11 (deep)		
1/20/83	pH	6.5-9	10.79

In addition to the above monitoring wells, Chemetco has constructed an acid recovery pit to collect groundwater leaving the facility. The contents of the pit are then pumped back to the facility. The contents of the pit are representative of groundwater quality, as diluted by rain falling into the pit.

### Acid Recovery Pit

<u>Date</u>	<u>Parameter</u>	<u>Water Quality Standard (mg/l)</u>	<u>Concentration (mg/l)</u>
9/7/83	Cadmium	0.05	1.7
	Copper	0.02	160
	Lead	0.1	0.56
	Nickel	1.0	900
	pH	6.5-9	5.9
	Sulfate	500	7450
	Zinc	1.0	120

The above results indicate the existence of a serious groundwater contamination problem, particularly with regard to heavy metals and pH. This contamination is in violation of 35 Ill. Adm. Code 302.208 and 302.204, and Section 12(a) of the Act.

#### 4. Depositing contaminants on the land

Chemetco has placed materials on the land surface in such a manner as to constitute a water pollution hazard. These include the following:

- a) Slag pile, placed on ground.
- b) Slag material used to construct a parking lot on the south side of Oldenburg Road, placed on ground.
- c) Zinc oxide waste from air scrubber system, placed in unlined surface impoundments and on ground at the northwest corner of the facility.
- d) Unlined acid pit which was closed by being covered over with soil without removing the material.
- e) Piles of scrap metal placed on the ground.

Each of the above poses a water pollution hazard, from either surface runoff or infiltration into groundwater, and thus constitute a violation of Section 12(d) of the Act.

5. Violation of RCRA Interim Status Standards (ISS) [35 Ill. Adm. Code (Parts 703 and 725)].

The two dozen ISS violations listed in Part V(2) above have been included in a Compliance Order referral to USEPA. These violations are as follows:

- a. Handling waste streams and utilizing waste treatment processes not specified in the Part A application, in violation of 35 Ill. Adm. Code 703.154. Specifically, Chemetco's Part A application currently does not reflect storage or disposal of zinc oxide wastes and acid wastes, nor treatment or storage of low pH waste involving "waste water" from L. C. Metals, Inc., a Chemetco subsidiary located near, but not on, the Chemetco plant.
- b. The Owner or Operator of a hazardous waste facility with interim status must obtain a detailed chemical and physical analysis of a representative sample of his waste pursuant to a written waste analysis plan, which plan he must keep at his facility, according to ISS 725.113. Investigations by Illinois EPA personnel disclose that no such written waste analysis plan for this facility exists.
- c. The Owner or Operator of a hazardous waste facility with interim status must, according to ISS 725.115, develop, follow and keep at his facility a written schedule for inspecting all monitoring, safety, emergency and security equipment and devices as well as such operating and structural equipment as are important to preventing, detecting or responding to environmental or human health hazards; he must remedy any deterioration or malfunction detailed during such inspection on a schedule which avoids or remedies such hazards, and must record and maintain inspection record for at least three years. Investigations by Illinois EPA personnel disclose that no such written inspection schedule or inspection record exists.
- d. The Owner or Operator of a hazardous waste facility with interim status must, according to ISS 725.137, attempt to make arrangements with state and local police, fire departments, emergency response units and hospitals as appropriate for responding to any emergencies which might arise at the facility. Illinois EPA personnel have determined that no such attempt has been made for this facility.
- e. The Owner or Operator of a hazardous waste facility with interim status must, according to ISS 725.151, have a written contingency plan for the facility, which plan must meet the content requirements prescribed for such plans in 35 Ill. Adm. Code 725.152; copies of the plan

must be maintained at the facility and distributed to emergency services agencies as provided in 35 Ill. Adm. Code 725.153. Illinois EPA personnel have determined that no such written contingency plan exists for this facility.

- f. The Owner or Operator of a hazardous waste facility with interim status must, according to ISS 725.173, keep a written operating record at the facility. Illinois EPA personnel have determined that no such record for the facility exists.
- g. The Owner or Operator of a hazardous waste facility with interim status must, according to ISS 725.174, furnish to authorized Agency employees or representatives on request all records, including plans, required under Part 725 of 35 Ill. Adm. Code. Illinois EPA personnel have requested such records, including the Operating Record, Contingency Plan and Waste Analysis Plan, but have not been furnished same. In addition, although a portion of the facility (the "acid pit") has been closed, no copy of any records of waste disposal locations or quantities under ISS 725.173(b)(2) has been submitted to the Director as required by ISS 725.174(c).
- h. The Owner or Operator of a hazardous waste facility with interim status must, according to ISS 725.175, prepare and submit a copy of an annual report to the Director of the Illinois EPA ("Director") by March 1 of each year, utilizing the form and instructions provided in Appendix II of 40 CFR Part 265. Agency records disclose no such annual report was submitted to the Director for this facility by March 1, 1983, or at any time thereafter to date.
- i. The Owner or Operator of a hazardous waste facility with interim status must, according to ISS 725.177, report to the Director facility closure as specified in 725.215. Agency records disclose no such report to the Director regarding closure of the "acid pit" portion of the facility.
- j. The Owner or Operator of a hazardous waste facility with interim status must, according to ISS 725.190, implement a groundwater monitoring program capable of determining the facility's impact on groundwater quality in the uppermost underlying aquifer, and must install, operate and maintain a groundwater monitoring system meeting the requirements of 725.191 through 725.194. Except for the system installed and operated by Chemetco to monitor the impact of the "acid pit", no such program or system has been put in place for this facility.

- k. According to ISS 725.193, the Owner or Operator of a hazardous waste facility with interim status must, by November 19, 1981, prepare an outline of a comprehensive groundwater quality assessment program. The Agency has determined that no such outline has been prepared for the Chemetco facility.
- l. The Owner or Operator of a hazardous waste facility with interim status must, according to ISS 725.194, keep groundwater monitoring analyses records and report groundwater monitoring information to the Director at least annually. The Agency has determined that no such records have been kept and no such reports have been provided to the Director regarding this facility.
- m. The Owner or Operator of a hazardous waste facility with interim status must, according to ISS 725.211, close his facility in a manner which minimizes the need for further maintenance and controls, minimizes or eliminates, to the extent necessary to protect human health and the environment, post-closure escape of hazardous waste or hazardous waste constituents, leachate or contaminated rainfall to the ground or surface waters. Illinois EPA personnel have observed that closure of the "acid pit" was accomplished by simply filling in the pit with waste slag containing leachable hazardous materials, which has led to contamination of the ground and surface waters in the vicinity of the facility, in turn necessitating further maintenance activities.
- n. According to ISS 725.212, the Owner or Operator of a hazardous waste facility with interim status must, by May 19, 1981, have a written closure plan which he must keep at the facility, and must submit his closure plan to the Director at least 180 days prior to commencement of closure. Illinois EPA personnel have determined that no such written closure plan for this facility exists and have observed that closure of the "acid pit" was accomplished without prior submission of a closure plan to the Director.
- o. According to ISS 725.218, the Owner or Operator of a hazardous waste facility with interim status must by May 19, 1981, have a written post-closure plan which he must keep at the facility. Illinois EPA personnel have determined that no such written post-closure plan for this facility exists.
- p. The Owner or Operator of a hazardous waste facility with interim status must, according to ISS 725.242, prepare and maintain at the facility a written estimate, in



current dollars, of the cost of closing the facility in accordance with the closure plan. Illinois EPA personnel have determined that no such written closure estimate exists for this facility.

- q. The Owner or Operator of a hazardous waste facility with interim status must, according to ISS 725.243, establish financial assurance for facility closure. Illinois EPA personnel have determined that no such assurance has been established for this facility's closure.
- r. The Owner or Operator of a hazardous waste facility with interim status must, according to ISS 725.244, prepare and maintain at the facility a written estimate, in current dollars, of the annual cost of post-closure care of the facility. Illinois EPA personnel have determined that no such written post-closure cost estimate exists for this facility.
- s. The Owner or Operator of a hazardous waste facility with interim status must, according to ISS 725.245 (and including 725.246-724.250), establish financial assurance for post-closure care of the facility. Illinois EPA personnel have determined that no such financial assurance has been established for this facility's post-closure care.
- t. The Owner or Operator of a hazardous waste facility with interim status must, according to ISS 725.322, assure that surface impoundments maintain enough freeboard (at least 2 feet) to prevent overtopping. Illinois EPA personnel have observed surface impoundments at this facility with less than 2 feet of freeboard and have witnessed, or observed the consequences of, overtopping of the contents of various pits and other surface impoundments at this facility.
- u. The Owner or Operator of a hazardous waste facility with interim status must, according to ISS 725.323, provide a protective cover, such as grass, to all earthen dikes to minimize wind and water erosion and preserve their structural integrity. Illinois EPA personnel have observed no protective cover for any dike on the subject facility.
- v. The Owner or Operator of a hazardous waste facility with interim status must, according to ISS 725.326, inspect at least once per day the freeboard level of each surface impoundment and, at least once each week, the condition of the surface impoundment. Illinois EPA personnel have determined that such a regimen of inspection has not been established at this facility, as evidenced by numerous observed unremediated deteriorated conditions and malfunctions.

- w. According to ISS 725.328, the Owner or Operator of a hazardous waste facility with interim status must, at closure of a hazardous waste impoundment, and if all impoundment materials are not removed, close the impoundment and provide post-closure care as for a landfill. Illinois EPA personnel have noted that closure of the "acid pit" was accomplished without removal of all impoundment materials but that closure and post-closure care as for a landfill has nevertheless not been provided.
- x. According to ISS 725.351, the Owner or Operator of a hazardous waste facility with interim status must, as to any waste pile containing hazardous waste which could be dispersed by wind action, cover or otherwise manage the pile to control such dispersal. Illinois EPA personnel have observed that waste piles at this facility are subject to wind dispersion but have not been covered or managed to control such dispersion.
- y. According to ISS 725.353, the Owner or Operator of a hazardous waste facility with interim status must, if leachate or runoff from a waste pile is a hazardous waste, either place an impermeable base beneath the pile, divert run-on and manage runoff; or otherwise protect the pile from precipitation and run-on. Illinois EPA personnel have determined that leachate and runoff from Chemetco's waste piles is or includes a hazardous waste, but have observed no effort to control, prevent or collect run-on, leachate or run-off.

## VII. Potential Witnesses

1. The following individuals are members of the Agency's Collinsville Field Operations Section (FOS) staff, 117 West Main, Collinsville, Illinois 62234, who have witnessed one or more of the violations alleged:

Perry Mann, DLPC  
Tom Powell, DLPC  
Pat McCarthy, DLPC  
Nick Mahlandt, DWPC  
Jeff Benbenek, DAPC

The Collinsville FOS office telephone is 618/345-4606.

2. The following individuals are members of the Agency's Springfield (Central Office) staff, 2200 Churchill Road, Springfield,

Illinois 62706, who have witnessed or monitored one or more of the violations alleged:

Gerry Siekerka, DWPC - Permits (782-3297)  
Bonnie Delay, DWPC - Compliance (782-9720)

3. Diane M. Spencer, formerly of the Agency's Collinsville FOS staff, also observed the facility. She is presently employed by USEPA, Region V, 230 South Dearborn, Chicago, Illinois 60604 (tele: 312/886-1332).

4. Two possible non-Agency witnesses are Cecil Longwisch and Paul T. Hawkins of the Madison County Building, Environmental and Zoning Department, 118 Hillsboro Avenue - Suite 205, Edwardsville, Illinois 62025 (tele: 618/692-6200). Note Mr. Hawkins' letter of December 9, 1983 and the attached report dated December 5, 1983 by Mr. Longwisch. Messrs. Montgomery, Boettcher and Klug, the latter two persons neighbors of Taracorp, have complained of Taracorp in the past (See, e.g., exhibits #128 and #129) and may be valuable witnesses.

#### VIII. Penalty Recommendation and Settlement Proposal

The maximum statutory penalty to date of March 9, 1984 (the date of the Agency's 31(d) pre-enforcement conference with Chemetco) has been calculated to be over \$16,500,000. Utilizing various weighting factors, and construing facts generously in favor of Chemetco, the Agency has determined that, accounting for factors in mitigation and aggravation, a penalty of \$600,000 is appropriate. Since groundwater contamination is an established fact, and since remedial and preventive measures are expected to substantially exceed \$600,000 (indicating a commensurately large economic savings from noncompliance accruing to Chemetco over the years), the Agency believes \$600,000 to be an appropriate penalty request. Chemetco has already rejected the Agency's settlement offer of a \$100,000 penalty plus admission that Chemetco is handling hazardous

wastes plus agreement (by May 1) to an enforceable compliance timetable: the Agency having thus been compelled to seek formal enforcement action, the Agency proposes a "bottom line" of \$125,000 for settlement purposes plus the admission and enforceable commitment to a compliance timetable previously demanded by the Agency. Such a settlement penalty should be directed to the Environmental Protection Trust Fund.

IX. Priority

Considering the potential for known groundwater contamination and other Chemetco-related pollution to reach or affect private water supplies and food chain crops, and the extent of known environmental problems, the Agency has assigned this case a high priority.

Special Note should be made of the potential for USEPA action against Chemetco for many of these same violations. Some effort to coordinate with USEPA is considered essential by the Agency.

X. List of Exhibits

A. DWPC:

<u>No.</u>	<u>Description</u>	<u>Date</u>
1	NPDES permit and cover letter to J. Suarez, V.P., from James O. McDonald, USEPA	02/25/77
2	DWPC Effluent Sampling Form (A22993)	02/18/82
3	DWPC Effluent Sampling Form (A31096)	04/21/82
4	DWPC Effluent Sampling Form (A39024)	06/23/82
5	DWPC Effluent Sampling Form (A07287)	08/25/82
6	DWPC Effluent Sampling Form (A14910)	10/27/82
7	DWPC Effluent Sampling Form (A23428)	01/12/83
8	DWPC Effluent Sampling Form (B30041)	03/16/83
9	DWPC Effluent Sampling Form (B37795)	05/11/83
10	DWPC Effluent Sampling Form (B008357)	08/24/83
11	DWPC Effluent Sampling Form (B010533)	09/08/83
12	NPDES Discharge Monitoring Report (DMR)	01/83
13	NPDES Discharge Monitoring Report (DMR)	02/83
14	NPDES Discharge Monitoring Report (DMR)	03/83
15	NPDES Discharge Monitoring Report (DMR)	04/83
16	NPDES Discharge Monitoring Report (DMR)	05/83

<u>No.</u>	<u>Description</u>	<u>Date</u>
17	NPDES Discharge Monitoring Report (DMR)	06/83
18	NPDES Discharge Monitoring Report (DMR)	07/83
19	NPDES Discharge Monitoring Report (DMR)	08/83
20	NPDES Discharge Monitoring Report (DMR)	09/83
21	NPDES Discharge Monitoring Report (DMR)	10/83
22	NPDES Discharge Monitoring Report (DMR)	11/83
23	NPDES Discharge Monitoring Report (DMR)	12/83
24	-Reserved-	
25	NPDES Inspection Report by J. N. Mahlandt	09/08/83
26	Memo to Div. of Water Pollution Control by J. N. Mahlandt	09/21/83
27	Report: Chemetco Copper Reclamation Facility, by Cecil Longwisch	12/05/83
28	Memo to Div. of Water Pollution Control by J. N. Mahlandt, P.E.	01/20/84

B. DLPC:

29	DLPC Complaint Investigation Form (C-80-21-5) by D. Wieties	9/14-9/21/79
30	Notification Letter to Chemetco from R. Chaturvedi	09/19/80
31	DLPC Complaint Investigation Form (C-81-44-5) by P. Mann, et al	12/2/80-1/9/81
32	Pre-D E Inspection Memo by P. McCarthy	01/09/81
33	Permit Denial Letter to Chemetco by S. Smith	02/17/81
34	Photographs (6) by T. Powell	12/07/81
35	Inspection Report by D. Spencer	03/30/82
36	RCRA ISS Inspection (Report) by D. Spencer	03/30/82
37	Letter to Chemetco by K. Mensing	04/08/82
38	DLPC Complaint Investigation Form (C-82-29-S) by K. Mensing, et al	6/30-8/6/82
39	Telephone Conversation Record (D. Montgomery) by K. Mensing	08/06/82
40	Memo to Division File by K. Mensing	08/09/82
41	Memo to Division File by T. Powell	08/09/82
42	Letter to Chemetco from K. Mensing	08/10/82
43	Telephone Conversation Record (J. Suarez) by K. Mensing	08/11/82
44	Observation Reporting by D. Spencer	08/27/82
45	Memo to File by D. Spencer	08/30/82
46	Observation Report (with 5 Photographs) by J. Evans and T. Powell	09/08/82
47	Letter to Chemetco from K. Mensing	09/13/82
48	Photographs (2) by J. Evans	10/01/82
49	Memo to Division File (with 1 Photograph) by T. Powell	01/10/83
50	Photograph (1) by T. Powell	03/16/83
51	Memo to Division File (attached: Lab Report, 5 photos) by T. Powell	05/25/83

<u>No.</u>	<u>Description</u>	<u>Date</u>
52	Letter to Chemetco from K. Mensing	05/25/83
53	Letter to K. Mensing from J. McKell	06/01/83
54	Letter to J. McKell (Chemetco) from	06/13/83
55	Letter to K. Mensing from J. McKell	06/20/83
56	Letter K. Mensing from J. McKell	06/30/83
57	Letter to J. Suarez (Chemetco) from R. Kuykendall	07/22/83
58	Letter to R. Kuykendall from J. Suarez	08/03/83
59	Memo to W. Franke from J. Benbenek	09/02/83
60	RCRA-ISS Inspection Report (including 9/12 Memo, 2 Maps, 11 Photos), P. Mann T. Powell	09/07/83
61	RCRA-Appendix A-1 Report (including 5/16 Memo, 1 Map), P. Mann	09/07/83
62	Letter (C.I.L.) to Chemetco from K. Mensing	09/21/83
63	Photographs (2) by P. Mann	09/22/83
64	Memo to File by P. Mann	09/28/83
65	Letter to K. Mensing from J. Suarez	10/03/83
66	Memo to Division File (Re: 10/21/83 Inspection) by T. Powell, P. Mann	10/26/83
67	Photographs (46) by P. Mann	10/21/83
68	Telephone Conversation Record (J. Suarez) by P. Mann	10/25/83
69	Letter to P. Mann from G. Roberts	10/25/83
70	Letter (w/attached Resolution) to T. Powell from P. Hawkins	10/26/83
71	Letter to G. Hannery (Chemetco) from from P. Hawkins (Madison County)	11/09/83
72	Memo to File by T. Powell and P. Mann	11/23/83
73	Letter to P. VanNess from J. Suarez	11/28/83
74	Letter to P. VanNess from P. Hawkins	12/09/83
75	Letter to P. Hawkins from P. VanNess	01/17/84
76	Report of Analysis by Environmental Analysis, Inc.	01/31/84
77	Memo to File by T. Powell and P. Mann	02/03/84
78	Jt. Letter (E.N.L.) to Chemetco from r. Kuykendall and E. Seebald	02/06/84
79	Telephone Conversation Record (J. McKell) by P. Mann	02/09/84
80	Letter to P. VanNess from J. Hazard (with Exhibits A-B)	03/29/84
81	Memo to File (with Attachment: "Chemetco's Inspection Policy") by P. Mann	04/20/84
82	Report of Analysis (No. 10416) by Environmental Analysis, Inc. (with cover letter)	09/20/82
83	Report of Analysis (No. 10771) by Environmental Analysis, Inc.	11/08/82

<u>No.</u>	<u>Description</u>	<u>Date</u>
84	Report of Analysis (No. 11229) by Environmental Analysis, Inc.	01/26/83
85	Report of Analysis (No. 11230) by Environmental Analysis, Inc.	01/26/83
86	Report of Analysis (Nos. 11229-11230) w/Cover Letter by R. Coleman, Jr.	02/23/83
87	Report of Analysis (Nos. 11384-11385) by Enviromental Analysis, Inc.	02/18/83
88	Report of Analysis (Nos. 11658-11660) by Enviromental Analysis, Inc.	03/25/83
89	Report of Analysis (Nos. 11879-11881) by Enviromental Analysis, Inc.	04/25/83
90	Report of Analysis (Nos. 12470-12472) & 7/19 Cover Memo by J. McKell	07/15/83
91	Report of Analysis (Nos. 12583-12585) by Enviromental Analysis, Inc.	07/27/83
92	Report of Analysis (Nos. 12895-12896) by Enviromental Analysis, Inc.	09/07/83
93	Report of Analysis (Nos. 13013-13014) by Enviromental Analysis, Inc.	09/22/83
94	Report of Analysis (Nos. 13197-13198, 13200-13201) by Enviromental Analysis, Inc.	10/14/83
95	Chemical Analysis Form (Sample #1) Collected by P. Mann	09/07/83
96	Chemical Analysis Form (Sample #2) Collected by P. Mann	09/07/83
97	Chemical Analysis Form (Sample #3) Collected by P. Mann	09/07/83
98	Chemical Analysis Form (Sample #4) Collected by P. Mann	09/07/83
99	Chemical Analysis Form (Sample #5) Collected by P. Mann	09/07/83
100	Chemical Analysis Form (Sample #6) Collected by P. Mann	09/07/83
101	Chemical Analysis Form (Sample #7) Collected by P. Mann	09/07/83
102	Chemical Analysis Form (Sample #8) Collected by P. Mann	09/07/83
103	Chemical Analysis Form (Mntr. Point G201) Collected by P. Mann	08/05/82
104	Chemical Analysis Form (Mntr. Point G202) Collected by P. Mann	08/05/82
105	Chemical Analysis Form (Mntr. Point G203) Collected by P. Mann	08/05/82
106	Chemical Analysis Form (Mntr. Point G201) Collected by T. Powell	08/06/82
107	Chemical Analysis Form (Mntr. Point G202) Collected by P. Mann	08/06/82
108	Chemical Analysis Form (Mntr. Point S501) Collected by J. Evans et al	09/08/82

<u>No.</u>	<u>Description</u>	<u>Date</u>
109	Chemical Analysis Form (Mntr. Point G102A) Collected by P. Mann	09/08/82
110	Chemical Analysis Form (Mntr. Point G105A) Collected by P. Mann	09/08/82
111	Chemical Analysis Form (Mntr. Point G104A) Collected by P. Mann	09/08/82
112	Chemical Analysis Form (Mntr. Point G107A) Collected by T. Powell	09/08/82
113	Chemical Analysis Form (Mntr. Point S601) Collected by T. Powell	05/11/82
114	Chemical Analysis Form (Mntr. Point S602) Collected by P. Mann et al	05/11/82
115	Special Analysis Form (Lab No. B30031) Collected by Mahlandt	03/16/83
116	Special Analysis Form (Lab No. B36935) Collected by Mahlandt	05/04/83
117	Special Analysis Form (Lab No. B36934) Collected by Mahlandt	05/04/83
118	Special Analysis Form (X-101; Acid Digest) Collected by P. Mann et al	05/11/83
119	Special Analysis Form (X-101; EP Toxicity) Collected by Mahlandt	05/11/83
120	Special Analysis Form (X-102; Acid Digest) Collected by Mahlandt	05/11/83
121	Special Analysis Form (X-102; EP Toxicity) Collected by Mahlandt	05/11/83
122	Special Analysis Form (Lab No. 01647) Collected by T. Powell	03/16/83
123	Special Analysis Form (Lab No. 01648) Collected by Mahlandt	09/07/83
124	Special Analysis Form (Lab No. 01649) Collected by Mahlandt	09/07/83
125	Special Analysis Form (Lab No. 01650) Collected by Mahlandt	09/07/83
126	Special Analysis Form (Lab No. 01651) Collected by Mahlandt	09/07/83
127	Special Analysis Form (Lab No. 01652) Collected by Mahlandt	09/07/83
128	Letter to T. Cavanagh (w/13 Photographs) from C. Boettcher	12/02/80
129	Letter to T. Cavanagh from C. Klug	12/02/80
130	Cover Letter and Attachment B: Monitoring Wells, from R. Coleman, Jr., P.E. to K. Mensing	11/16/82

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